

by Chigot (5,958,536). Furthermore, claims 1-12, 17-47, 51-53, 55 and 57-87 were rejected under 35 U.S.C. as being obvious and unpatentable over Chigot.

In response thereto, claims 1-23, 30, 31, 38, 48-51, 58, 59 and 67 are cancelled and new claims 142-173 are added. Accordingly and following entry of this amendment, claims 24-29, 32-37, 39-47, 52-57, 60-66, 68-87, and 126-173 are pending. In the following discussion, independent claims will hereinafter be underlined as a courtesy to more clearly point them out to the Examiner. Rejections made by the Examiner in light of the cited references will be addressed in the order presented in the above referenced Office Action.

Also, objected claims 48-51 are now presented in a new format as new claims 142-144 and 147.

Turning to the Examiner's first anticipation rejection of claims 1-2, 8-11, 13-25, 27-47, 51-55, 57-76, 78-82, and 84-87 in light of Gelsinger, a closer study of the cited document and the currently pending claims reveals that several elements that are recited in the pending claims are not found in Gelsinger. It is noted that currently, particular claims have been cancelled and thus these rejections should be withdrawn.

In particular, independent claim 126 recited an at least one weakened liner-sheet line defining at least a portion of a liner sheet patch, as exemplified in FIG. 2 and FIG. 6. There is no teaching in Gelsinger of providing such liner sheet patches/portions on the labels disclosed therein. In fact Gelsinger teaches away from providing areas of a liner that are separated from the surrounding liner and come away with the handle portion of a facestock label. As seen in FIG. 4 of Gelsinger, it appears that detachable tab 140 is not cut into the facestock portion and "either does not have an adhesive backing, or is originally formed with an adhesive backing which is later deactivated. Since the tab 140 does not adhere to the release-liner 160, it extends upwardly from the surface of the release-liner 160" (col. 3 lines 45-49), unlike the handle portions taught by the present invention. Focusing on area 170b in FIG. 4 of Gelsinger, Applicants respectfully point out that it is clearly shown that the underlying portion of the release liner does not and cannot be removed from the surrounding release sheet and thus this construction does not provide any liner sheet patch. While Applicants concur with the Examiner's contention that an edge of the label facestock can be unattached and free-standing, this is not the configuration of the constructions provided and claimed in the instant application wherein at least a portion of a liner sheet patch is part of a handle portion, as previously related.

Independent claim 24 recites a label applicator construction comprising, among other elements, a liner sheet wherein the liner strip, when in a separated position, being separated from a liner body portion and backsides of the facestock labels being exposed such that the liner body portion can be manipulated such that the facestock labels are in desired positions relative to at least one surface (see FIGS. 16-19). There is no disclosure in Gelsinger regarding any liner strip being in any configuration to provide, when removed and separated from a liner body portion, a liner body portion that can be manipulated such that the facestock labels are in desired positions relative to at least one surface. The only type of positioning disclosed in Gelsinger is related to the removal of the facestock label with tab portion, without ever any mention of liner contribution to label positioning as appreciated and disclosed in the instant application. Thus claim 24, as well as claims dependent therefrom, are patentable in light of the disclosure provided by Gelsinger. Additionally claim 66 recites a similar limitation and is thus also allowable.

The same findings are true of independent claim 44 and claims dependent therefrom, wherein, the liner strip when in a separated position being separated from the liner body portion and backsides of the facestock labels thereby being exposed whereby the liner body portion can be manipulated such that the facestock labels are in desired positions relative to at least one surface.

Independent claim 46 recites at least one facestock weakened separation line defining at least in part a plurality of aligned facestock labels. Such a configuration is exemplified in FIG. 13 by cut 328 which forms a plurality of aligned labels 332. Additionally recited in the claim is a liner strip which when in a removed position exposes the bottom surfaces of the labels. An example of a liner strip is shown by reference numeral 364. Gelsinger fails to disclose any liner strip or at least one weakened separation line defining at least in part a plurality of aligned facestock labels but rather only discloses cuts that define only singular labels. Thus independent claim 46 is patentable over Gelsinger.

The above detailed patentability arguments are also applicable to claims 54-56, for example. In addition to the lack of disclosure of previously discussed liner sheet strip(s), including a second liner strip, Gelsinger also fails to disclose thin neck portions of the facestock being uncoated with the liner sheet interconnecting adjacent ones of spaced holes through a laminate construction sheet.

Many claims rejected by the Examiner as anticipated by Gelsinger in fact recite limitations that are not shown in Gelsinger or even mentioned in the Office Action. For example, claim 70 recites at least one die cut line separates the first liner strip from the second liner strip, as exemplified in FIG 22. Claim 71 states that adhesive holds the first and second liner strips together. Independent claim 75 recites liner sheet cut lines allowing separation of a portion of the liner sheet from another portion to thereby assist a

user in positioning the facestock labels. As discussed above, there is no mention in Gelsinger of any such liner sheet cut lines nor portions that may be utilized for assistance in label positioning and therefore claim 75 is allowable.

Similarly, other claims that the Examiner has rejected, such as claim 81 wherein it is recited that facestock labels are serially interconnected with breakable facestock thin connector strips are clearly not anticipated by Gelsinger. Similarly, limitations recited in newly added claims such as serially-connected strip portions interconnected by thin necks (claim 142), are not disclosed in Gelsinger.

Claims 30, 31, 38, 58, 59 and 67 have been re-written in independent format as new claims 148-151, respectively, so as to more clearly and distinctly point out the present invention. The previous recitations/limitation have been incorporated into the appropriate claims, as discussed above. Applicants respectfully submit that in light of the above cited arguments and new claims, the Examiner's 35 U.S.C. 102 (b) rejections based on Gelsinger have been traversed.

Now turning to the Examiner's second anticipation rejection of claims 1-11, 17-47, 41-53, 55, and 57-87 in light of Chigot, Applicants respectfully assert that there are aspects regarding the Chigot patent that the Examiner may not have appreciated and has thus taken an overly broad view of this reference. More particularly, in FIG. 5 of Chigot, it is noted that the second label, having a tab, is connected to label 7, which has been separated from backing 2. As such, the secondary label 12 is not attached to a liner sheet having "...at least one weakened liner-sheet line .." defining at least a portion of a liner sheet patch on the handle portion, as claimed. That is, when the main label 7 is, in fact, removed from backing 2 and place upon a surface, there is no underlying liner sheet and the only liner (backing) remaining is the first removable segment 20, which has been detached from the greater portion of backing 2. Therefore there is no longer any weakened line sheet line, as presently recited in claim 126, because there is no greater liner from which the weakened liner sheet line may be made. Thus according to Chigot and at the time that secondary label 7 is removed from the release material provided by the backing first removable segment 20 utilizing tab 16, the handle portion (tab 16) does not result in a "facestock label and ...handle portion being removable from the liner sheet with the liner sheet patch on the handle portion and thereby exposing adhesive on a back surface of the facestock label" as currently claimed in claim 126, for example. Rather, in Chigot, tab 16 is removed from the liner portion when both labels are removed from the greater backing (liner sheet) and both applied to a package, as shown in FIG 7. This removal of the handle portion from the liner/backing does not result in the exposure of adhesive on a back surface of the facestock label, as claimed in the present application. Accordingly, the invention, as presently claimed, is patentable over the Chigot patent.

Similarly, in FIG. 3 of the Chigot patent, recall that once main label 7 is removed from the greater portion of backing 2, which may be referred to as a liner sheet, there is no longer a liner sheet to which the first removable segment 20 is attached. Therefore, when the secondary label and its associated tab are removed from backing 2, adhesive 34 is not exposed but rather is covered by first removable segment 20. By contrast, in claim 126, the facestock label and the handle portion when removed from the liner sheet with the liner sheet patch on the handle portion, exposes the adhesive on a back surface of the facestock label. Therefore, claim 126 and claims dependent therefrom are allowable.

Additionally, claim 24 recites the limitation that "the liner body portion can be manipulated" so as to assist in the placement of the facestock labels in desire position. There is no disclosure of the backing (liner) of Chigot providing any other function than a carrier for the labels. Thus claim 24 and all claims dependent therefrom are patentable over Chigot. Likewise, claims 44, 66 (which recites a secondary liner strip not taught by Chigot), 77 and 127, which all recite the limitation of least a portion of the liner to assist in the manipulation of the placement of labels, are also patentable over Chigot.

Finally, the Examiner points out that Chigot fails to teach that the label includes a second handle and contends that such a configuration would have been an obvious matter of design choice to one of ordinary skill in the art. Further, that the second handle would constitute a mere duplication of an essential working part. Applicants concur with the Examiner inasmuch that Chigot does not teach a second handle and in addition, respectfully point out that there is no such suggestion in Chigot for such a configuration. Thus, one of the exemplary configurations provided by the present invention, a two handled label which assists a user in the accurate placement of the label onto a surface, is not simply an obvious matter of design choice. As stated by the Federal Circuit in re Zurko, 258 F.3d at 1385, 59 USPQ2d at 1697, "deficiencies of the cited references cannot be remedied by ... general conclusions about what is 'basic knowledge' or 'common sense'." Applicants respectfully request the Examiner to point out and distinguish where and what renders such liner modifications obvious to one of ordinary skill at the time of the filing of this application in the event the Examiner repeats this rejection. Applicants respectfully contend that claims reciting such a limitation are allowable.

Therefore, in light of the above added claims, canceled claims and arguments, Applicants respectfully solicit acceptance and entry of this amendment and furthermore respectfully request that the Examiner withdraw all 35 USC 102/103 rejections of pending claims. Allowance of all pending claims is earnestly requested.

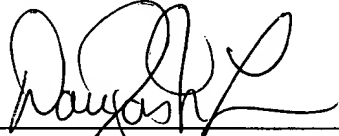
Any additional fees required in connection with this communication which are not specifically provided for herewith are authorized to be charged to the Deposit Account No. **16-2230 in the name of Oppenheimer Wolff & Donnelly LLP**. Any overpayments are also authorized to be credited to this account. A return postcard and this Transmittal Letter in duplicate are attached.

If there are any remaining issues, the Examiner is encouraged to telephone counsel to seek to resolve them.

Respectfully submitted,

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By

  
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